

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
)	
Plaintiff,)	ANSWER AND
)	AFFIRMATIVE DEFENSES
v.)	
)	Case No. 1:07-cv-95
CRST VAN EXPEDITED, INC.,)	
)	
Defendants.)	
)	

Defendant CRST Van Expedited, Inc. ("CRST"), by its attorneys, answers Plaintiff's First Amended Complaint as follows:

"Nature of the Action" paragraph - CRST admits that the First Amended Complaint purports to assert claims under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII") and Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981 on behalf of Monica Starke and others. CRST denies the remaining allegations of this paragraph.

1. CRST admits that the Plaintiff purports to invoke this Court's jurisdiction under 28 U.S.C. §§ 451, 1331, 1337, 1343, and 1345 and purports to bring this action pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) and Section 102 of the Civil Rights Act of 1991, 42 U.S. C. § 1981a. CRST denies the remaining allegations of Paragraph 1, including any inference that it has violated any of these statutes or that Plaintiff is entitled to any relief.

2. CRST denies the allegations of Paragraph 2.

3. CRST admits the allegations of Paragraph 3.

4. CRST admits the allegations of Paragraph 4.

5. CRST admits the allegations of Paragraph 5.

6. CRST admits the allegations of the first sentence of Paragraph 6. CRST denies the remaining allegations of Paragraph 6.

7. CRST denies the allegations of Paragraph 7.

8. CRST denies the allegations of Paragraph 8.

9. CRST denies the allegations of Paragraph 9.

10. CRST denies the allegations of Paragraph 10.

11. CRST denies the allegations of Paragraph 11.

ADDITIONAL AND AFFIRMATIVE DEFENSES

Without assuming the burden of proof with respect to any issue or matter when the burden of proof would otherwise be on the Plaintiff, CRST asserts the following defenses:

1. CRST took reasonable care to prevent and correct unlawful harassment, and Monica Starke and similarly situated female employees failed to take advantage of corrective opportunities or otherwise to avoid harm, if any.

2. Monica Starke and similarly situated female employees have failed to mitigate their damages, if any.

3. To the extent some or all of the acts complained of involve conduct outside of a CRST workplace or outside of CRST working time, CRST has no legal responsibility for such personal activities.


4. Plaintiff's claims are barred to the extent they are untimely.

5. Plaintiff's claims are barred to the extent an individual on whose behalf it purports to act failed to exhaust available administrative remedies.

6. Plaintiff's claims for punitive damages are barred by CRST's good faith efforts to comply with applicable law.

WHEREFORE, Defendant CRST respectfully requests that this Court enter judgment in its favor dismissing with prejudice Plaintiff's First Amended Complaint and award CRST such other and further relief as the Court may deem appropriate.

CRST VAN EXPEDITED, INC.

By: 
Kevin Visser AT0008101
Thomas D. Wolle AT0008564
Moyer & Bergman P.L.C.
2720 First Avenue N.E.
P.O. Box 1943
Cedar Rapids, IA 52406-1943
Telephone: (319) 366-7331
Facsimile: (319) 366-3668
E-mail: kvisser@moyerbergman.com
twolle@moyerbergman.com

OF COUNSEL:
John H. Mathias, Jr.
Robert A. Markowski
Carla J. Rozycki
J. Andrew Hirth
Jenner & Block LLP
330 N. Wabash Ave.
40th Floor
Chicago, IL 60611
Telephone: (312) 923-2917
Facsimile: (312) 840-7317
E-mail: jmathias@jenner.com

I hereby certify that on November 30, 2007, I electronically filed the foregoing Answer and Affirmative Defenses with the Clerk of Court using the ECF system which will send notification of such filing to the following:

Brian C. Tyndall
Senior Trial Attorney
Equal Employment Opportunity Commission
Milwaukee Area Office
310 West Wisconsin Avenue, Suite 800
Milwaukee, WI 53203-2292
Brian.tyndall@eeoc.gov

/s/ Deanna Wilson
Deanna Wilson, Secretary